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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,109	11/30/2000	Kurt Schunke	SCHUNKE	6814

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EXAMINER

STEFANON, JUSTIN

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 02/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/727,109

Applicant(s)

SCHUNKE ET AL.

Examiner

Justin Stefanon

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the overload relay must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 13 recites an overload relay, which is not shown in the drawings and is insufficiently described in the specification to enable one skilled in the art to use in the present invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 4,786,107 to Crockett.

Crockett discloses a lifting mechanism 20 having a lifting arm 94 articulated to a component 42 of a stationary supporting structure 24 for moving the component between two end positions, a rotary drive mechanism 44 having an output member 84 linked to the lifting arm, and a stationary support means 82 associated to the rotary drive mechanism for at least partially absorbing a load moment exerted during movement of the component. The support means includes two parallel support beams 82 extending horizontally from one longitudinal side 26 to another 28 of the supporting structure, with the rotary drive mechanism positioned therebetween. The rotary drive mechanism includes a housing 90, having an end wall visible in Figure 6, and a rotary drive, described as a threaded shaft in Column 4, lines 46-48, fitted in the housing. The support means includes a fork head, shown in Figure 2 extending vertically from a plate between support beams 82, and a rod 86 received in aligned bores in the wall of the housing. The output member 84 is form-fittingly connected to the lifting arm 98, as shown in Figure 6.

6. Claims 1, and 8-11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 5,730,494 to LaPointe et al.

Lapointe discloses a lifting mechanism¹ having a lifting arm 218 articulated to a component 212, a rotary drive mechanism 136 having an output member 276 linked to the lifting arm and stationary support means 33 associated to the rotary drive mechanism for at least partially absorbing a load moment. The out put member of the rotary drive mechanism is a rotation part with a polygonal bore, as seen in Figure 8, said lifting mechanism including two parallel lifting arms 218 and a crossbar 15 having opposite ends for interconnecting the two lifting arms and snugly fitting in and extending through the bore. The adjustment device further comprises a mounting 140 for securing the rotary drive mechanism to the supporting structure, as described in column 8, lines 53-57, and a profiled piece 221 disposed on one of the lifting arms on a side which faces the rotary drive mechanism and attached to the crossbar, as shown in Figure 10A. Lapointe further discloses, in column 7, lines 18-20, limit switches as stop means mounted to the lifting mechanism for defining end positions.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaPointe et al. in view of U.S. Patent No. 5,155,496 to Suga.

In reference to claim 12, LaPointe discloses the subject matter of claim 11, as discussed above, but do not disclose stop means including a resilient stop member. Suga discloses the use of a limit switch with resilient arm members to limit the operation range of an automatic radio antenna for a vehicle. It would have been obvious to one skilled in the art at the time the invention was made to use resilient members such as disclosed in Suga in the limit switches described by LaPointe, as resilient limit switches are a known means of defining a maximum range of operation of a moving member.

In reference to claim 13, LaPointe discloses the subject matter of claim 11, and discloses the use of an AC power source, and inherently also a power supply line, connected to the rotary drive, but does not disclose an overload relay located in the power supply line for cutting the rotary drive when a current exceeds a predetermined value. Suga describes, in column 1, a system of using an overload switch to limit the operation range of an automatic radio antenna as an alternative to the use of limit switches. It would have been obvious to one skilled in the art at the time the invention was made to use an overload relay instead of limit switches to define the maximum range of operation of the moving members in LaPointe, as Suga teaches the two are equivalents. Furthermore, the use of an overload switch provides an added safety measure to keep the electric motor of LaPointe from overheating.


Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses further descriptions of the use of overload switches, and other adjusting devices utilizing rotary drives with support beams and polygonal bores in the rotary drive mechanism.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Stefanon whose telephone number is 703-305-1945. The examiner can normally be reached on Monday - Friday 6 - 3:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
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February 5, 2002